



General Assembly

**Amendment**

February Session, 2012

LCO No. 3570

**\*SB0024303570SR0\***

Offered by:  
SEN. SUZIO, 13<sup>th</sup> Dist.

To: Senate Bill No. 243

File No. 331

Cal. No. 263

**"AN ACT CONCERNING CERTIFICATES OF MERIT."**

1 After the last section, add the following and renumber sections and  
2 internal references accordingly:

3 "Sec. 501. Section 52-192a of the 2012 supplement to the general  
4 statutes is repealed and the following is substituted in lieu thereof  
5 (*Effective October 1, 2012, and applicable to actions filed on or after said*  
6 *date*):

7 (a) Except as provided in subsection (b) of this section, after  
8 commencement of any civil action based upon contract or seeking the  
9 recovery of money damages, whether or not other relief is sought, the  
10 plaintiff may, not earlier than one hundred eighty days after service of  
11 process is made upon the defendant in such action but not later than  
12 thirty days before trial, file with the clerk of the court a written offer of  
13 compromise signed by the plaintiff or the plaintiff's attorney, directed  
14 to the defendant or the defendant's attorney, offering to settle the claim  
15 underlying the action for a sum certain. For the purposes of this

16 section, such plaintiff includes a counterclaim plaintiff under section 8-  
17 132. The plaintiff shall give notice of the offer of compromise to the  
18 defendant's attorney or, if the defendant is not represented by an  
19 attorney, to the defendant himself or herself. Within thirty days after  
20 being notified of the filing of the offer of compromise and prior to the  
21 rendering of a verdict by the jury or an award by the court, the  
22 defendant or the defendant's attorney may file with the clerk of the  
23 court a written acceptance of the offer of compromise agreeing to settle  
24 the claim underlying the action for the sum certain specified in the  
25 plaintiff's offer of compromise. Upon such filing and the receipt by the  
26 plaintiff of such sum certain, the plaintiff shall file a withdrawal of the  
27 action with the clerk and the clerk shall record the withdrawal of the  
28 action against the defendant accordingly. If the offer of compromise is  
29 not accepted within thirty days and prior to the rendering of a verdict  
30 by the jury or an award by the court, the offer of compromise shall be  
31 considered rejected and not subject to acceptance unless refiled. Any  
32 such offer of compromise and any acceptance of the offer of  
33 compromise shall be included by the clerk in the record of the case.

34 (b) In the case of any action to recover damages resulting from  
35 personal injury or wrongful death, whether in tort or in contract, in  
36 which it is alleged that such injury or death resulted from the  
37 negligence of a health care provider, the plaintiff may, not earlier than  
38 three hundred sixty-five days after service of process is made upon the  
39 defendant in such action, file with the clerk of the court a written offer  
40 of compromise pursuant to subsection (a) of this section and, if the  
41 offer of compromise is not accepted within sixty days and prior to the  
42 rendering of a verdict by the jury or an award by the court, the offer of  
43 compromise shall be considered rejected and not subject to acceptance  
44 unless refiled.

45 (c) After trial the court shall examine the record to determine  
46 whether the plaintiff made an offer of compromise which the  
47 defendant failed to accept. If the court ascertains from the record that  
48 the plaintiff has recovered an amount equal to or greater than the sum  
49 certain specified in the plaintiff's offer of compromise, the court shall

50 add to the amount so recovered: (1) For actions that are subject to the  
 51 provisions of subsection (a) of this section, eight per cent annual  
 52 interest on said amount, except that in the case of a counterclaim  
 53 plaintiff under section 8-132, the court shall add to the amount so  
 54 recovered eight per cent annual interest on the difference between the  
 55 amount so recovered and the sum certain specified in the counterclaim  
 56 plaintiff's offer of compromise; and (2) for actions that are subject to  
 57 the provisions of subsection (b) of this section, interest at a rate equal  
 58 to the weekly average one-year constant maturity yield of United  
 59 States Treasury securities, as published by the Board of Governors of  
 60 the Federal Reserve System for the calendar week preceding the date  
 61 the offer of compromise was filed with the court, plus two per cent.  
 62 Notwithstanding the provisions of subdivisions (1) and (2) of this  
 63 subsection, the interest rate established under this subsection shall not  
 64 exceed the rate of eight per cent. The interest shall be computed from  
 65 the date the complaint in the civil action or application under section 8-  
 66 132 was filed with the court if the offer of compromise was filed not  
 67 later than eighteen months from the filing of such complaint or  
 68 application. If such offer was filed later than eighteen months from the  
 69 date of filing of the complaint or application, the interest shall be  
 70 computed from the date the offer of compromise was filed. The court  
 71 may award reasonable attorney's fees in an amount not to exceed three  
 72 hundred fifty dollars, and shall render judgment accordingly. This  
 73 section shall not be interpreted to abrogate the contractual rights of  
 74 any party concerning the recovery of attorney's fees in accordance with  
 75 the provisions of any written contract between the parties to the  
 76 action."

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	<i>October 1, 2012, and applicable to actions filed on or after said date</i>	52-192a